

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1043

Short Title: Safekeeper/Medical Costs.

(Public)

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Sponsors: Representative Flaherty.

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Referred to: Appropriations.

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April 22, 1991

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW THE DEPARTMENT OF CORRECTION TO CHARGE  
2 COUNTIES FOR THE EXTRAORDINARY MEDICAL COSTS OF  
3 SAFEKEEPERS.  
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5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 162-39 reads as rewritten:

7 "**§ 162-39. Transfer of prisoners when necessary for safety and security;**  
8 **application of section to municipalities.**

9 Whenever necessary for the safety of a prisoner held in any county jail or to avoid a  
10 breach of the peace in any county or whenever prisoners are arrested in such numbers  
11 that county jail facilities are insufficient and inadequate for the housing of such  
12 prisoners, the resident judge of the superior court or any judge holding superior court in  
13 the district or any district court judge may order the prisoner transferred to a fit and  
14 secure jail in some other county, or to a unit of the State prison system designated by the  
15 Secretary of Correction or his authorized representative, where the prisoner shall be  
16 held for such length of time as the judge may direct. The sheriff of the county from  
17 which the prisoner is removed shall be responsible for conveying the prisoner to the jail  
18 or prison unit where he is to be held, and for returning him to the common jail of the  
19 county from which he was transferred. The return shall be made at the expiration of the  
20 time designated in the court order directing the transfer unless the judge, by appropriate  
21 order, shall direct otherwise. The sheriff or keeper of the jail of the county designated  
22 in the court order, or the officer in charge of the prison unit designated by the Secretary  
23 of Correction, shall receive and release custody of the prisoner in accordance with the  
24 terms of the court order. If a prisoner is transferred to a unit of the State prison system,

1 the county from which the prisoner is transferred shall pay the Department of  
2 Correction for maintaining the prisoner for the time designated by the court at the per  
3 day, per inmate rate at which the Department of Correction pays a local jail for  
4 maintaining a ~~prisoner,~~ prisoner. The county shall also pay the Department of  
5 Correction for the costs of extraordinary medical care incurred while the prisoner was in  
6 the custody of the Department of Correction, defined as follows:

- 7 (1) Medical expenses incurred as a result of providing health care to an  
8 inmate as an inpatient (hospitalized);
- 9 (2) Other medical expenses when the total cost exceeds thirty-five dollars  
10 (\$35.00) per occurrence or illness as a result of providing health care  
11 to an inmate as an outpatient (nonhospitalized); and
- 12 (3) Cost of replacement of eyeglasses and dental prosthetic devices if  
13 those eyeglasses or devices are broken while the inmate is  
14 incarcerated, provided the inmate was using the eyeglasses or devices  
15 at the time of his commitment and then only if prior written consent of  
16 the Department is obtained by the local facility.

17 ~~provided, however, that~~ However, a county is not required to reimburse the State for  
18 maintaining a prisoner who was a resident of another state or county at the time he  
19 committed the crime for which he is imprisoned. If the prisoner is transferred to a jail in  
20 some other county, the county from which the prisoner is transferred shall pay to the  
21 county receiving the prisoner in its jail the actual cost of maintaining the prisoner for the  
22 time designated by the court. Counties are hereby authorized to enter into contractual  
23 agreements with other counties to provide jail facilities to which prisoners may be  
24 transferred as deemed necessary under this section.

25 Whenever prisoners are arrested in such numbers that county jail facilities are  
26 insufficient and inadequate for the safekeeping of such prisoners, the resident judge of  
27 the superior court or any superior or district court judge holding court in the district may  
28 order the prisoners transferred to a unit of the State Department of Correction  
29 designated by the Secretary of Correction or his authorized representative, where the  
30 prisoners may be held for such length of time as the judge may direct, such detention to  
31 be in cell separate from that used for imprisonment of persons already convicted of  
32 crimes. The sheriff of the county from which the prisoners are removed shall be  
33 responsible for conveying the prisoners to the prison unit or units where they are to be  
34 held, and for returning them to the common jail of the county from which they were  
35 transferred. However, if due to the number of prisoners to be conveyed the sheriff is  
36 unable to provide adequate transportation, he may request the assistance of the  
37 Department of Correction, and the Department of Correction is hereby authorized and  
38 directed to cooperate with the sheriff and provide whatever assistance is available, both  
39 in vehicles and manpower, to accomplish the conveying of the prisoners to and from the  
40 county to the designated prison unit or units. The officer in charge of the prison unit  
41 designated by the Secretary of Correction or his authorized representative shall receive  
42 and release the custody of the prisoners in accordance with the terms of the court order.  
43 The county from which the prisoners are transferred shall pay to the Department of  
44 Correction the actual cost of transporting the prisoners and the cost of maintaining the

1 prisoners at the per day, per inmate rate at which the Department of Correction pays a  
2 local jail for maintaining a prisoner, provided, however, that a county is not required to  
3 reimburse the State for transporting or maintaining a prisoner who was a resident of  
4 another state or county at the time he was arrested. However, if the county  
5 commissioners shall certify to the Governor that the county is unable to pay the bill  
6 submitted by the State Department of Correction to the county for the services rendered,  
7 either in whole or in part, the Governor may recommend to the Council of State that the  
8 State of North Carolina assume and pay, in whole or in part, the obligation of the county  
9 to the Department of Correction, and upon approval of the Council of State the amount  
10 so approved shall be paid from Contingency and Emergency Fund to the Department of  
11 Correction.

12 When, due to an emergency, it is not feasible to obtain from a judge of the superior  
13 or district court a prior order of transfer, the sheriff of the county and the Department of  
14 Correction may exercise the authority hereinafter conferred; provided, however, that the  
15 sheriff shall, as soon as possible after the emergency, obtain an order from the judge  
16 authorizing the prisoners to be held in the designated place of confinement for such  
17 period as the judge may direct. All provisions of this section shall be applicable to  
18 municipalities whenever prisoners are arrested in such numbers that the municipal jail  
19 facilities and the county jail facilities are insufficient and inadequate for the safekeeping  
20 of the prisoners. The chief of police is hereby authorized to exercise the authority  
21 herein conferred upon the sheriff, and the municipality shall be liable for the cost of  
22 transporting and maintaining the prisoners to the same extent as a county would be  
23 unless action is taken by the Governor and Council of State as herein provided for  
24 counties which are unable to pay such costs.

25 The number of county prisoners incarcerated in the State prison system pursuant to  
26 safekeeping orders from the various counties may not exceed 200 at any given time  
27 unless authorized by the Secretary of Correction. The Secretary may refuse to accept  
28 any safekeeper and may return any safekeeper transferred under a safekeeping order  
29 when this capacity limit is reached."

30 Sec. 2. This act is effective upon ratification, and applies to medical expenses  
31 incurred on or after that date.